IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICALTION NO.2258 OF 2004
IN
WRIT PETITION NO.9880 OF 2003

Office Note, Office Memoranda of Coram appearance, Corut's orders or directions and Registrar's Orders:

Court's or Judge's Orders

Mr.Jai Joshi i/b. Mustafa S.Motiwala for Applicants.
Mr.V.G. Muzumdar for Respondent Nos. 1 to 4.
Mr. M.S. Bhandari with Ms. Suman Jain for Respondent No.5.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 4th March, 2005

P.C.

. The respondents are entitled to tax the premises owned by the respondent No.5, of which the occupant is the petitioner. According to the Respondent No.5 there is an agreement between themselves and the petitioner, copy of which has been forwarded to Respondent No.1. In terms of that agreement the respondent No.5 will bear the tax upto Rs.50,000/- per annum and any excess over that amount to be paid by the petitioner.

2. The petitioner had come to this court on account of the threatened action of the respondent No.1 for recovery of its dues. They have deposited the excess amounts and the Respondent No.5 has deposited a sum of Rs.1,50,000/- for three years at the rate of Rs.50,000/- p.a.

3. The respondent No.1 cannot be kept waiting for recovery of its dues. Once the petitioner has approached this Court and sought relief which was given to him on deposit, merely because the petition was withdrawn cannot result in this Court refunding the money back to the petitioner, who had invoked the extra ordinary jurisdiction of this Court. On facts the money deposited will be paid only in the hands of Respondent No.1 which it will hold towards the arrears due. If it is the case of the petitioner that he is not due any amount and it is the respondent No.5 who alone has to pay, that can be independently agitated elsewhere. Considering the above we direct the Registry to issue cheque forthwith to respondent No.1 for all the amounts deposited both by the petitioner and respondent No.5 which will be adjusted by the respondent No.1 towards the tax dues.

. Certified copy expedited.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)